

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 1 is amended. Claims 12-15 were previously canceled. With entry of these amendments, which introduce no new subject matter, claims 1-11 will be pending.

35 U.S.C. § 102(b)

Claims 1-11 stand rejected as being anticipated by Matthews *et al.* (WO 95/34595). While acknowledging that a person of ordinary skill in the art “would not equate toxins with virus and vice versa”, the Office contends that “the person of ordinary skill in the art would reasonably interpret that the dendrimer of Mathews [sic] is employed to treat or inhibit the substances produced by the viral infection.” Office action, page 4.

Applicants respectfully maintain that the evidence of record fail to establish anticipation of the claimed subject matter by Matthews *et al.* Nevertheless, without prejudice and to further the prosecution of the application, applicants hereby amend claim 1 to delete any reference to toxins and toxic peptides released during viral infection.

In light of the foregoing amendment, applicants respectfully request withdrawal of this rejection.

Double Patenting

Claims 1-11 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36, 38 and 39 of U.S. Patent No. 6,190,650. In maintaining this rejection, the Advisory Action states that the deletion of viral infection from claim 1 does not overcome this rejection “because toxins and toxic peptides are released during bacterial, protozoal or viral infections.” This statement contradicts the plain language of amended claim 1, which recites “toxins and toxic peptides released during bacterial, protozoal or fungal infection.” As amended, claim 1 clearly excludes inhibition of toxins and toxic peptides released during viral infections.

In light of the foregoing amendment, applicants respectfully request withdrawal of this rejection.

Amendments

Applicants respectfully submit that in the Amendment filed January 12, 2004, claims 7 and 11 were correctly identified as “currently amended”. In the second from the last line of claim 7, a hyphen was inserted after “cationic”. In the last line of claim 11, roman numeral “xli.” was inserted before “saccharin terminated dendrimers.”

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Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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